

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN GARY SPICER, PH.D.
P.O. Box 1724
La Mesa, CA 91944

Psychologist's License No. PSY 11561

Respondent.

Case No. W244


OAH No. L-2003010372

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Psychology as its Decision in this matter.

This Decision shall become effective on **January 1, 2004**.

It is so ORDERED October 24, 2003.



FOR THE BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
William Lew Tan, President

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD D. HENDLIN, [State Bar No. 76742]
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
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5 P.O. Box 85266
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7 Attorneys for Complainant
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12 JOHN GARY SPICER, PH.D.
P.O. Box 1724
13 La Mesa, CA 91944

OAH No. L-2003010372

14 Psychologist's License No. PSY 11561

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.
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17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Tom S. O'Conner (Complainant) is the Executive Officer of the Board of
21 Psychology. He brought this action solely in his official capacity and is represented in this matter
22 by Bill Lockyer, Attorney General of the State of California, by Richard D. Hendlin, Deputy
23 Attorney General.

24 2. John Gary Spicer, Ph.D., (Respondent) is represented in this proceeding by
25 attorney Robert C. Schlein, whose address is Schlein & McKinney, 401 B Street, Suite 2220, San
26 Diego, California 92101-4245.

27 3. On or about March 1, 1990, the Board of Psychology issued Psychologist's
28 License No. PSY 11561 to John Gary Spicer, Ph.D.

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establish a factual basis for the charges in the Accusation and that those charges, if proven at a hearing, would constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Admissions made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation. The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.

11. Respondent understands that by signing this stipulation he enables the Board of Psychology Order accepting the surrender of his Psychologist's License without further process.

12. Respondent agrees that upon his signing of this stipulation, he shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients prior to the effective date of the surrender of his license.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board of Psychology. Respondent understands and agrees that counsel for complainant and the staff of the Board of Psychology may communicate directly with the Board regarding this stipulation, without notice to or participation by respondent or his counsel. By signing the stipulation, respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. In the event that this stipulation is rejected for any reason by the Board, it will be of no force or effect for either party, except for this paragraph which will remain in effect. The Board will not be disqualified from further action in this matter by virtue of its consideration of this stipulation.

14. This Stipulated Surrender of License and Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties.

1 to be true and correct when the licensing agency determines whether to grant or deny the
2 application and for the purpose of any Statement of Issues or other proceeding seeking to deny
3 such application or reapplication.

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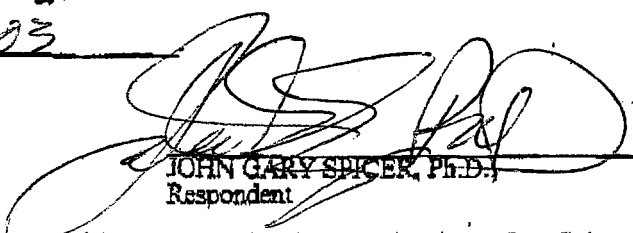
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Robert C. Schlein. I understand the stipulation and the effect it will have on my Psychologist's License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Psychology.

DATED: 9-10-03

JOHN GARY SPICER, Ph.D.
Respondent

I have read and fully discussed with respondent John Gary Spicer, Ph.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 9/11/03

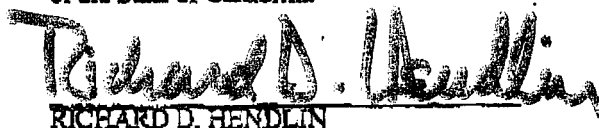
ROBERT C. SCHLEIN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Psychology.

DATED: Sept. 11, 2003

BILL LOCKYER, Attorney General
of the State of California



RICHARD D. HENDLIN
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 02598150-SD2002AD0593
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Exhibit A
Accusation No. W244

FILED
STATE OF CALIFORNIA
BOARD OF PSYCHOLOGY
SACRAMENTO
BY M. Goodman 2002
ANALYST

BILL LOCKYER, Attorney General
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Attorneys for Complainant

BEFORE THE
BOARD OF PSYCHOLOGY
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. W244

JOHN GARY SPICER, PH.D.
4585 Panorama Drive
La Mesa, California 92041

ACCUSATION

Psychologist's License No. PSY 11561

Respondent.

Complainant alleges:

PARTIES

1. Thomas S. O'Connor (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Psychology.
2. On or about March 1, 1990, the Board of Psychology issued Psychologist's License Number PSY 11561 to John Gary Spicer, Ph.D. (Respondent). The Psychologist's License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2004, unless renewed.

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1 (m) The suspension, revocation or imposition of probationary
2 conditions by another state or country of a license or certificate to practice
3 psychology or as a psychological assistant issued by that state or country
4 to a person also holding a license or registration issued under this chapter
5 if the act for which the disciplinary action was taken constitutes a violation
6 of this section.

7 (n) The commission of any dishonest, corrupt, or fraudulent act.

8 (o) Any act of sexual abuse, or sexual relations with a patient or
9 former patient within two years following termination of therapy, or
10 sexual misconduct that is substantially related to the qualifications,
11 functions or duties of a psychologist or psychological assistant or
12 registered psychologist.

13 (p) Functioning outside of his or her particular field or fields of
14 competence as established by his or her education, training, and
15 experience.

16 (q) Willful failure to submit, on behalf of an applicant for
17 licensure, verification of supervised experience to the board.

18 (r) Repeated acts of negligence.

19 5. Section 726 of the Code states:

20 "The commission of any act of sexual abuse, misconduct, or
21 relations with a patient, client, or customer constitutes unprofessional
22 conduct and grounds for disciplinary action for any person licensed under
23 this division, under any initiative act referred to in this division and under
24 Chapter 17 (commencing with Section 9000) of Division 3.

25 "This section shall not apply to sexual contact between a physician
26 and surgeon and his or her spouse or person in an equivalent domestic
27 relationship when that physician and surgeon provides medical treatment,
28 other than psychotherapeutic treatment, to his or her spouse or person in
an equivalent domestic relationship."

6. Section 125.3 of the Code provides, in pertinent part, that the Board may
request the administrative law judge to direct a licentiate found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Gross negligence, Repeated Acts of Negligence, Incompetence)

7. Respondent is subject to disciplinary action under sections 2960 (j), (p),
and (r) as a result of his having committed gross negligence, repeated negligent acts, and
incompetence during his care and treatment of patient J.D. The circumstances are as follows:

1 A. On or about November 1995, patient J.D. plead guilty to having
2 sex with a minor boy, 16 years of age. She was put on five years probation, ordered not
3 to consume alcohol and to receive therapy from respondent. She began therapy with
4 respondent in December 1995.

5 B. After two initial individual sessions, patient J.D. began group
6 sessions, joining nine other men who were all convicted of sex crimes. Patient J.D.
7 continued in group sessions from January 1996 through the latter part of 1998. In
8 December 1998 she began individual sessions with respondent once a week for an hour.
9 The appointments were on Mondays between 7 and 8 p.m.

10 C. From December 1998 through October 1999 respondent
11 would behave flirtatiously with patient J.D., on one occasion asking her to raise
12 her skirt so he could see her panties. He also began walking her out to her car
13 after the session. When he took patient J.D.'s elbow while walking, she told him
14 to stop.

15 D. Sometime in February 1999, respondent went to patient
16 J.D.'s house and bought some carpet from her for use in his cabin in Pine Valley.

17 E. Toward the summer of 1999 respondent told patient J.D. he
18 thought there was a chemistry between them. She denied this, but a month later
19 asked respondent if it was typical for clients to have a crush on their doctors.
20 Respondent said it was typical.

21 F. When patient J.D. began a dating relationship with a man,
22 she began to tell respondent about their sexual activities. Respondent, in turn,
23 told patient J.D. he was a vagina man. When patient J.D. said she liked
24 performing oral sex, respondent replied "well, you know we would do if we ever
25 had sex together?"

26 G. Sometime in September 1999, patient J.D. told respondent
27 she was feeling lonely and horny. Respondent said he could pull out a movie and
28 they could go in a room and masturbate. When respondent asked how she would

1 feel, patient J.D. said lonely, and that respondent had someone he could go home
2 to. Respondent told her he didn't get sex at home anymore.

3 H. During the next session patient J.D. again told respondent
4 she was lonely. Respondent asked her what she wanted him to do as he was only
5 human. When respondent reached out for her she curled up and ultimately left the
6 session.

7 I. Sometime in September 1999, patient J.D. gave respondent
8 a nude photograph of her taken by her former boyfriend.

9 J. On or about October 18, 1999, patient J.D. told respondent
10 she wanted to find someone to have sex with. She told respondent that talking
11 about sex got her excited. She told respondent she got excited from smelling
12 someone. Respondent asked if she smelled him she could tell whether she wanted
13 to have sex. Patient J.D. said yes and began smelling respondent's armpit
14 through his shirt. She then unbuttoned his shirt and rubbed her face on his chest.
15 Respondent began moaning and sighing. They began kissing, after which
16 respondent pressed his chest against patient J.D.'s bare chest. After making out
17 for while, respondent turned patient J.D. around and inserted his penis into her
18 vagina from the rear. When he did this, he stated, "I can't believe I'm doing this.
19 I've never done this before. I've never crossed this line before." After having
20 sexual intercourse, respondent told patient J.D. he had not had sex with his wife
21 for two years. Respondent told her he was not supposed to do this and could go to
22 prison and lose his license.

23 K. During the next session, on or about October 25, 1999,
24 patient J.D. and respondent again had sexual intercourse.

25 L. At the session on or about November 8, 1999, patient J.D.
26 brought with her a movie to show respondent. It was about a female with a sexual
27 addiction. After watching about half the movie patient J.D. performed oral sex on
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1 respondent. Thereafter, patient J.D wrote respondent a couple of poems one of which
2 was about his "sweet nectar."

3 M. Patient J.D. and respondent engaged in sexual intercourse
4 again during the session on or about November 15, 1999.

5 N. When patient J.D. wanted to have sex with respondent
6 during the session on or about November 22, 1999, respondent refused. He also
7 said he wanted to change her appointments to daytime sessions. Within a couple
8 of weeks patient J.D. quit her therapy sessions with respondent. Respondent
9 called her and told her they were friends and not to throw in the towel.

10 O. In December 1999 patient J.D. returned to respondent to
11 take some tests. She gave him a little wooden jester as a Christmas present. He
12 talked to her about coming back to therapy saying he loved her and they were
13 friends. Patient J.D. told him she would find another therapist. Respondent never
14 gave patient J.D. a referral.

15 P. Respondent called patient J.D. and asked her to return to
16 therapy. She returned for daytime sessions in January 2000. She thereafter
17 resumed regular appointments. She told respondent that there were times she
18 wanted to have sex with him. Respondent said he felt the same way and the only
19 way to trust himself was to schedule daytime appointments.

20 Q. Patient J.D. gave respondent a country music CD for a
21 birthday present in January 2000.

22 R. During his last two sessions with patient J.D. respondent
23 shared with her information about other patients he was treating.

24 S. Sometime during the course of her treatment with
25 respondent, patient J.D. also gave him Lorcet which had been prescribed for her.

26 8. Respondent committed gross negligence and repeated negligent acts by
27 reasons of, but not limited too, the following:

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- 1 A. Respondent engaged in sexual relations with patient J.D.
2 B. Respondent engaged in inappropriate sexually based discussions
3 with patient J.D.
4 C. Respondent discussed intimate aspects of his personal life with
5 patient J.D.
6 D. Respondent engaged in multiple dual relationships with patient
7 J.D.
8 E. Respondent watched a sexually explicit movie with patient J.D.
9 F. Respondent accepted the nude photograph of patient J.D.,
10 the music CD, and the medication from patient J.D.
11 G. Respondent failed to schedule appointments with patient
12 J.D. at an appropriate time, scheduling them instead for the evening hours.
13 H. Respondent failed to refer patient J.D. to another therapist.

14 SECOND CAUSE FOR DISCIPLINE

15 (Sexual Relations With a Patient)

16 9. Respondent is subject to disciplinary action under sections 2960 (o) and
17 726 in that during the time he was providing care and treatment to patient J.D. he engaged in
18 sexual relations with her as specifically delineated in paragraph 7 (A) through (S) which is
19 incorporated in its entirety herein as if fully set forth.

20 THIRD CAUSE FOR DISCIPLINE

21 (Dishonest Acts)

22 10. Respondent is subject to disciplinary action under section 2960 (n) in that
23 during the course and treatment of patient J.D. respondent committed a dishonest act by altering
24 the patient records. The circumstances are as follows:

- 25 A. Respondent's records for patient J.D. include a list with
26 patient J.D.'s name at top which patient J.D. did not write, and which contains
27 falsehoods about patient J.D.'s experiences.

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1 B. The records provided by respondent to the Medical Board,
2 which purport to be copies of the original chart, contain three duplicated chart
3 notes with different dates from those records which were directly copied from
4 respondent's original chart.

5 PRAYER

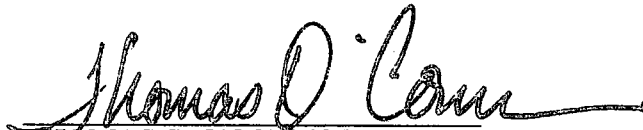
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Psychology issue a decision:

8 1 Revoking or suspending Psychologist's License Number PSY 11561,
9 issued to John Gary Spicer, Ph.D.;

10 2. Ordering John Gary Spicer, Ph.D. to pay the Board of Psychology the
11 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,
12 the costs of probation monitoring;

13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: October 24, 2002

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17 THOMAS S. O'CONNOR
18 Executive Officer
19 Board of Psychology
20 State of California
21 Complainant

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24 RDH:clj
25 03598160-SD2002AD0593
26 I:\al\HENDLIN\Spicer\Accusation Final - 10-3-02.wpd
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DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation :
Against:

John Gary Spicer, Ph.D

No. : W244

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22, Sacramento, California 95825. I served a true copy of the attached:

STATEMENT TO RESPONDENT; ACCUSATION; GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7; NOTICE OF DEFENSE (2 COPIES); REQUEST FOR DISCOVERY AND DISCIPLINARY GUIDELINES

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

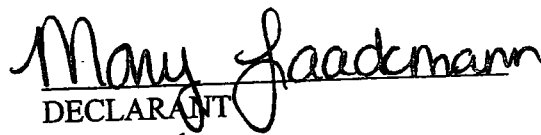
John Gary Spicer, Ph.D.
4585 Panorama Drive
La Mesa, CA 92041

7001 1940 0001 2974 7682

Richard D. Hendlin
Office of the Attorney General
110 West "A" St., Ste. 1100
San Diego, CA 92186-5266

Each said envelope was then, on October 24, 2002, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, October 24, 2002, at Sacramento, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Analyst